

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SARAH TOMPKINS,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 6:10-cv-00058
	§	
vs.	§	
	§	
ABLE PLANET INCORPORATED;	§	
AMAZON.COM, INC.;	§	
AMERICAN RECREATION PRODUCTS, INC.;	§	
CENTURY LLC;	§	Response to Defendant Wal-Mart's
CENTURY MARTIAL ART SUPPLY, LLC;	§	Motion to Dismiss
MAG INSTRUMENT, INC.;	§	
TARGET CORPORATION;	§	Jury Trial Demanded
THINK OPERATIONS, LLC;	§	
WAL-MART STORES, INC.;	§	
	§	
Defendants.	§	

**RESPONSE TO DEFENDANT WAL-MART STORES, INC.'S
MOTION TO DISMISS PLAINTIFF TOMPKINS' COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Wal-Mart Stores, Inc. ("Wal-Mart") filed a motion to dismiss Plaintiff Tompkins' Complaint on April 19, 2010. On April 28 Plaintiff filed a motion for leave to file a Second Amended Complaint. The amendments in Plaintiff's Second Amended Complaint were made in part to address deficiencies alleged in Wal-Mart's motion to dismiss. Plaintiff's motion for leave was granted on April 29. In light of the filing of Plaintiff's Second Amended Complaint, Plaintiff believes that no substantive response to Wal-Mart's motion is necessary. Counsel for

Wal-Mart has indicated that Wal-Mart is considering whether to move to dismiss Plaintiff's Second Amended Complaint. Plaintiff will substantively respond to such motion if one is filed.

Date: May 3, 2010

Respectfully submitted,

/s/George Tompkins/
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record, who are deemed to have consented to electronic service, are being served this 3rd day of May 2010 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/George M. Tompkins/